

# VARIANCE APPLICATION

(Please Print or Type)

**Case B** \_\_\_\_\_ **(Assigned by the Planning Department)**

Location: \_\_\_\_\_

Tax Map \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_ Pin Number : \_\_\_\_\_

Zoning: \_\_\_\_\_

Ordinance provision(s) from which a variance is requested: \_\_\_\_\_

\_\_\_\_\_

This is what I want to do: (Site Plan Attached)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

This is why I can't: Ordinance provisions require:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I hereby petition the Durham Board of Adjustment for a Variance from the literal provisions cited above to allow use of the property as described on this form and in material submitted with this request.

## **Factors Relevant to the Issuance of a Variance**

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the State Enabling Act, the Board is required to reach three conclusions before it may issue a variance: (a) that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance; (b) that the variance is in harmony with the general purposes and intent of the Ordinance and preserves its spirit; and (c) that in granting the variance, the public safety and welfare have been assured and substantial justice has been done.

*The Zoning Ordinance (16.4) calls out the following "General Findings of Fact" which the Board of Adjustment must make in granting any variance:*

1. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other lands, buildings, structures, or uses in the same zoning districts.

\_\_\_\_\_

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\_\_\_\_\_

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2. That the special conditions or circumstances or practical difficulties do not result from the actions of the property owner or applicant, their agent, employee or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Inspections Department before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later.

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3. That the strict enforcement of this ordinance would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this ordinance.

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4. That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this ordinance denies to other land, structures, or uses in the same district, and it will be the minimum variance necessary to provide relief.

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5. That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance.

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6. That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties.

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7. That the variance will not result in the expansion of a nonconforming use.

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In making the findings above, the Board of Adjustment may give special weight to the number and/or percentage of nearby properties that share characteristics for which the variance is requested by the applicant. The Board may grant a variance to expand an existing structure, including the expansion of a nonconforming feature that would otherwise be disallowed under Section 19.7, without making findings (1) and (4) above if the remaining findings can be made.

***I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information, and belief.***

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***Applicant Signature***

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***Date***